IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4637 OF 2004

M/s Grindwell Norton Ltd. ... Petitioners

v/s

Laxmichand Bhule Valmiki ... Respondent

Mr V.C. Ghosalkar for Petitioners.

Mr S.K. Chaturvedi i/b M/s Chaturvedi and Associates

for Respondent.

CORAM : D.K. DESHMUKH J.

DATE : 22ND JUNE 2005.

P.C. :-

1. By order dated 18th June 2004, notice of final disposal has been issued to the respondent who is the plaintiff in the suit. He had applied for an order of permanent injunction restraining the petitioners from taking possession of the suit premises. The suit premises are residential. According to the plaintiff, he got possession of the premises as a licensee because he was in the employment of the petitioners. According to the plaintiff - respondent, he retired from the services of the petitioners on 6th October 2003. Despite this position, both the Courts below have granted temporary injunction in favour of the respondent restraining the petitioners from dispossessing the respondent. In my opinion, granting an order which is in the discretion of the Court in favour of a litigant like plaintiff, is misuse of the powers. It is clear from the averments in paragraph 3 of the plaint that the plaintiff was given possession of the premises on licence basis because he was in the employment of the petitioners. Obviously therefore, on his employment coming to an end on his retirement, he had no authority to continue to occupy the premises. The power of the Court to grant temporary injunction is to be exercised

for advancing justice. The power of the Court to grant temporary injunction is not to be used to encourage the litigant like plaintiff, who after coming to an end of his employment, still wants to possess the premises. The system of employers maintaining some premises so that they can accommodate their employees will collapse if the litigants like plaintiff are encouraged to continue to stick to the premises even after their employment comes to an end. It was contended on behalf of the respondent that he is licensee of the premises and that without taking recourse to law, he cannot be made to vacate the premises. In my opinion, that is not relevant when the Court is considering the question whether discretionary power of grant of temporary injunction can be exercised or not. Granting of temporary injunction is in the discretion of the Court and that power has to be exercised for advancing justice. In my opinion, orders passed by both the Courts below do not advance justice, but it results in injustice because it encourages the litigant like plaintiff who, after retiring from the services, wants to retain the premises depriving others who are in the employment to take possession of the premises. Taking overall view of the matter therefore, in my opinion, petition deserves to be allowed. Rule is made absolute accordingly. Petition is allowed, order impugned in the petition is set aside. The respondent is directed to

pay costs of this petition to the petitioners as incurred by the petitioners.

. Parties to act on the copy of this order duly authenticated by the Sheristedar / Personal Secretary of this Court as true copy.

. Certified copy expedited.